



1 PAOLA M. ARMENI  
 2 CLARK HILL PLLC  
 Nevada Bar No. 8357  
 1700 South Pavilion Center Drive, Suite 500  
 3 Las Vegas, Nevada 89135  
 Tel: (702) 862-8300  
 4 Email: [parmeni@clarkhill.com](mailto:parmeni@clarkhill.com)  
 Attorney for Respondent, Michele Fiore

5 **BEFORE THE NEVADA COMMISSION ON JUDICIAL DISCIPLINE**

6 **STATE OF NEVADA**

7 In the Matter of the,  
 8 HONORABLE MICHELE FIORE  
 9 Judge, Pahrump Township, County of Nye, State  
 10 of Nevada  
 11 Respondent.

COMMISSION CASE NO. 2025-108

12 **THE HONORABLE JUDGE MICHELE FIORE’S REPLY TO OPPOSITION TO**  
 13 **RESPONDENT’S MOTION TO DISMISS**

14  
 15 The Commission's Opposition fails to cure the fundamental defects identified in Judge  
 16 Fiore's Motion to Dismiss. Rather than addressing the legal deficiencies in the Formal Statement  
 17 of Charges, the Commission relies on speculation, misapplies authority, and attempts to expand  
 18 its disciplinary jurisdiction beyond any authority recognized by statute, rule, or case law. The  
 19 Opposition likewise fails to grapple with the central issue presented in this proceeding: whether  
 20 the Commission may discipline a sitting judge for conduct that occurred before she assumed  
 21 judicial office and before she became subject to the Nevada Code of Judicial Conduct.

22 Instead of identifying a legal duty allegedly breached by Judge Fiore, the Commission  
 23 advances hypothetical future claims, relies upon disciplinary authorities involving professionals  
 24 who were subject to governing ethical rules at the time of their conduct, and repeatedly  
 25 characterizes the underlying criminal proceedings in a manner inconsistent with their actual  
 26 procedural posture. In doing so, the Commission asks themselves to infer statutory grounds for  
 27 discipline, speculate about potential civil and criminal actions, and disregard the jurisdictional and  
 28 due process limitations that govern disciplinary proceedings.

1 The law requires more. Fundamental principles of due process demand clear notice of the  
2 charges, a legally cognizable basis for discipline, and the consistent application of established  
3 rules. Because the Formal Statement of Charges fails to satisfy those requirements, and because  
4 the Commission's Opposition does not remedy those deficiencies, the Motion to Dismiss should  
5 be granted.<sup>1</sup>

6 **MEMORANDUM OF POINTS AND AUTHORITIES**

7 **I.**

8 **STATEMENT OF RELEVANT FACTS**

9 As throughout these proceedings, the Commission continues to disregard evidence that is  
10 inconsistent with its theory of the case. Despite having reviewed the trial transcripts, the  
11 Commission's factual recitation remains inaccurate. Specifically, the Commission asserts that the  
12 donors testified they made contributions "based upon Respondent's representations . . . ."  
13 Opposition at 2:12-20. The record does not support that characterization.

14 As detailed in Judge Fiore's Motion to Dismiss, donors Mohney, Chesnoff, Groesbeck,  
15 Richardson, and Torino did not testify that Ms. Fiore personally solicited their donations. See  
16 Motion at 4:17-24. Indeed, the testimony reflects that Ms. Fiore did not ask these individuals to  
17 contribute funds. The Commission's broad assertion that all donors contributed based upon  
18 representations made by Judge Fiore therefore overstates and, in several instances, misstates the  
19 evidence presented at trial.

20 The Commission also overlooks that donor Palivos' check included the memo line  
21 "charitable donation," which is consistent with his stated intent that the funds be used for veterans,  
22 the homeless, or law enforcement.

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25 <sup>1</sup> Judge Fiore notes that Article 1, Section 8 of the Nevada Constitution and the Fourteenth  
26 Amendment to the United States Constitution guarantee a respondent the right to a fair and  
27 impartial tribunal. Here, the Commission initiated the Complaint, opposes Judge Fiore's motions,  
28 and ultimately adjudicates those same matters and the merits of the charges. Under these  
circumstances, Judge Fiore submits that the current process does not provide the fair and impartial  
tribunal required by due process.

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**II.**

**LEGAL ARGUMENT**

**A. THE NEVADA COMMISSION ON JUDICIAL DISCIPLINE LACKS JURISDICTION TO BRING A FORMAL STATEMENT OF CHARGES.**

The Nevada Supreme Court concluded that the Commission possessed jurisdiction on two independent grounds: first, that the Commission had not yet imposed any discipline or punishment upon Judge Fiore; and second, that the suspension order was based on allegations that Judge Fiore engaged in misconduct while serving as a judicial officer. Nevada Supreme Court Order at 4. Accordingly, to the extent the Commission relies on the Supreme Court’s ruling on the writ to invoke issue preclusion, such reliance is misplaced. The issues were not actually and necessarily litigated in a posture identical to the present proceeding, which now involves the Commission’s attempt to impose discipline and punishment on Judge Fiore.

**B. THE FORMAL STATEMENT OF CHARGES FAIL TO STATE A CLAIM**

**1. The Formal Statement of Charges Violates Fundamental Due Process by Failing to Identify the Statutory Grounds for Discipline**

In response to this argument, the Commission contends that “it takes no imagination simply to ‘connect the dots’ between the allegations and the corresponding subsections of NRS 1.4654.” Opposition at 5:19–21. However, NRS 1.4654 governs notice of an intention to order forfeiture of public office, and Judge Fiore has never received any such notice. Fundamental constitutional protections require actual, not inferred, notice. An important constitutional right should not depend on conjecture or require the respondent to “connect the dots” to discern the basis of the charges.

Rather, due process requires that the Commission clearly identify the specific provisions of NRS 1.4653 that it alleges have been violated, thereby eliminating guesswork and ensuring adequate notice of the claims at issue.

**2. Count One Should Be Dismissed as No Legal Obligation Exists**

Perhaps recognizing that there is no legal obligation, the Commission abandons an actual obligation in favor of conjecture about hypothetical civil and criminal actions that might someday

1 be pursued by donors or state authorities. Yet there is no evidence that any donor intends to file a  
2 civil action, nor is there any indication that a state prosecuting agency is contemplating criminal  
3 charges. The Commission's argument rests entirely on speculation.

4 That is insufficient. Factual allegations must be enough to raise a right to relief "above the  
5 speculative level." *In re Carey*, 446 B.R. 384, 392 (B.A.P. 9th Cir. 2011), quoting *Bell Atl. Corp.*  
6 *v. Twombly*, 550 U.S. 544, 545, 127 S. Ct. 1955, 1959 (2007). Likewise, a controversy is ripe only  
7 when the alleged harm is sufficiently concrete, "rather than remote or hypothetical." *Herbst*  
8 *Gaming, Inc. v. Heller*, 122 Nev. 877, 887, 141 P.3d 1224, 1231 (2006). Accordingly, the  
9 Commission's speculation that criminal or civil proceedings could be initiated against Judge Fiore  
10 at some undefined point in the future should be afforded no weight.

11 Moreover, the Commission's argument is not merely speculative, it is obsolete. The statute  
12 of limitation applicable to every hypothetical claim identified by the Commission have expired.  
13 Attempting to avoid this reality, the Commission asserts that because "Respondent's conduct did  
14 not become public until the fall of 2024, the statute of limitations period on these claims has yet to  
15 elapse." Opposition at 7:7-8. That argument is flawed both factually and legally.

16 As an initial matter, the Commission is not a donor and possesses no personal knowledge  
17 regarding when any donor became aware of the circumstances surrounding his or her contribution.  
18 The Commission is therefore forced to speculate about the donors' knowledge just as it speculates  
19 about future legal actions.

20 The record, however, demonstrates that at least some donors knew—or unquestionably  
21 should have known of the relevant facts years before 2024. For example, Donor Joe Lombardo  
22 attended the opening of Beck Park, the very event at which it was allegedly announced that the  
23 developer had donated the Beck statue. If that allegation is true, then Mr. Lombardo knew, or at a  
24 minimum should have known, of the circumstances surrounding his donation in January 2020.

25 The Commission's argument fares no better as to the remaining donors. Its position ignores  
26 both the criminal investigative process and the evidentiary record. Publicity in 2024 does not  
27 establish when donors became aware of issues relating to their donations. Criminal investigations  
28 do not begin with an indictment; they culminate in one. Here, a search warrant was executed at

1 Judge Fiore's residence in January 2021. Thereafter, the FBI contacted donors. See generally donor  
2 testimony. Thus, the Commission's assertion that donors first became aware of the circumstances  
3 surrounding their donations in 2024 is inconsistent with the chronology of the criminal  
4 investigation, the donor testimony, and the record as a whole.

5 Because the Commission's tolling argument depends upon a factual premise that is  
6 unsupported by the evidence and contradicted by the record, it cannot salvage claims that are  
7 otherwise time-barred. Therefore, the Commission has failed to identify any legal obligation and  
8 Count One of the Statement of Formal Charges must fail.

9 **3. Count Two Should Be Dismissed Because the Commission**  
10 **Impermissibly Attempts to Transform a Completed Pre-Bench Private**  
11 **Matter into a Continuing Judicial Ethics Violation**

12 The Commission attempts to address this argument by focusing on actions it contends  
13 Judge Fiore should have taken after assuming judicial office. As discussed above, however, the  
14 Commission identifies no legal authority imposing a duty upon a judge to contact donors regarding  
15 contributions made years earlier, particularly where those contributions predated judicial service  
16 and were unrelated to any judicial function.

17 Moreover, there is no evidence that any donor requested the return of a donation and that  
18 Judge Fiore refused such a request. To the contrary, the only donor who Judge Fiore has recently  
19 learned may desire the return of funds is Mr. Lombardo, and that information arose through the  
20 judiciary discipline investigative process. Judge Fiore has previously advised the Commission that  
21 she would return Mr. Lombardo's contribution to the campaign account from which the donation  
22 originated. Accordingly, the Commission's argument is premised upon duties that do not exist and  
23 facts that are not supported by the record.

24 **4. Count Three Should Be Dismissed for Failure to Allege Post-**  
25 **Investiture Misconduct, Reliance on a Premature Guilty-Verdict**  
26 **Theory, and the Commission's Inconsistent and Shifting Disciplinary**  
27 **Framework**

28 The Commission should refrain from repeatedly characterizing this matter as involving a  
"conviction." Even before the issuance of the Presidential Pardon, Judge Fiore had not been  
convicted. A conviction requires the entry of a Judgment of Conviction, and no such judgment was

1 ever entered in this case. Accordingly, the Commission's continued use of the term "conviction" is  
2 legally inaccurate and fails to reflect the actual procedural posture of the underlying criminal  
3 matter.

4 a. **While a Pardon May Not Extinguish Professional Obligations, Judge Fiore Was**  
5 **Not Subject to the Judicial Canons When the Pardoned Conduct Occurred**

6 The Commission cites *In re Mang Shin*, 125 Nev. 100, 110, 206 P.3d 91, 98 (2009), for the  
7 proposition that the pardon does not preclude the Commission from considering Judge Fiore's  
8 conduct for disciplinary purposes. Opposition 8:8-14. The Commission's reliance on *Shin*,  
9 however, is misplaced because that case did not address the scope of a licensing or disciplinary  
10 body's authority over conduct occurring before an individual became subject to its jurisdiction.  
11 Rather, the issue in *Shin* was whether a statute prohibiting the sealing of criminal records  
12 constituted an unconstitutional limitation on the Governor's pardoning power. 206 P.3d at 92.  
13 Nothing in *Shin* addresses the question presented here: whether a judicial disciplinary body may  
14 sanction a judge for conduct that occurred before the individual assumed judicial office and before  
15 the judicial canons applied.

16 The Commission likewise relies on *In re Abrams*, 689 A.2d 6 (D.C. 1997). While *Abrams*  
17 recognized that a pardoned criminal conviction may serve as the basis for attorney disciplinary  
18 proceedings, the Commission overlooks the critical feature of that case, the *misconduct occurred*  
19 *while the individual was licensed as an attorney* and therefore subject to the ethical rules  
20 governing the legal profession. Indeed, the court emphasized that "[t]he central question in a  
21 disciplinary proceeding is whether the attorney has adhered to the high standards of honor and  
22 integrity which membership in our profession demands, and not whether he has been criminally  
23 punished for any derelictions." *Id.* at 11-12.

24 More importantly, the *Abrams* court expressly recognized the distinction that controls  
25 here:

26 There may be instances where an individual's conduct constitutes not only a federal  
27 offense, but also a violation of a separate code of conduct or ethics that the  
28 individual is obligated to comply with by virtue of his or her professional license.  
Discipline associated with the breach of the conditions of a professional license,

1           **where the disciplinary action is not triggered merely by the fact of commission**  
2           **or conviction of a federal offense**, generally would not be barred by a pardon." *Id.*  
3           at 16 (emphasis added).

4           That principle undermines, rather than supports, the Commission's position. The rationale  
5           for professional discipline is that the individual violated ethical obligations that applied at the time  
6           of the alleged misconduct. The Commission has identified no authority permitting discipline based  
7           on the violation of a code of conduct that did not yet govern the individual when the alleged  
8           conduct occurred.

9           The same flaw permeates the numerous attorney disciplinary cases cited by the  
10          Commission. Opposition 9-10:20-3. In each instance, the attorney was subject to the rules of  
11          professional conduct at the time of the criminal conduct and was disciplined because that conduct  
12          violated ethical obligations attendant to the attorney's licensed status. Those cases therefore  
13          provide no support for the Commission's attempt to exercise authority over conduct that predated  
14          Judge Fiore's judicial service.

15          Here, the alleged criminal conduct occurred while Ms. Fiore was serving as a Las Vegas  
16          City Council member. She was not acting in a judicial capacity, was not a judge, and was not  
17          subject to the Nevada Code of Judicial Conduct. The Commission's theory would effectively  
18          permit retroactive application of judicial ethical standards to conduct occurring before an  
19          individual assumed judicial office. Neither *Shin, Abrams*, nor any of the attorney discipline cases  
20          cited by the Commission endorse such a sweeping expansion of disciplinary authority. Had Judge  
21          Fiore been serving as a judge at the time of the alleged conduct, the Commission would stand on  
22          firmer ground. But that is not this case.

23                 **b. The Commission fails to address the other arguments made by Judge Fiore related**  
24                 **to the Jury Verdict**

25          Further, the Commission fails to address Judge Fiore's additional arguments concerning  
26          the significance of the jury's verdict. Most notably, the Commission does not explain why, if the  
27          verdict alone was sufficient to warrant discipline, it did not proceed with a Statement of Charges  
28          within the timeframe contemplated by its own procedural rules. Nor does the Commission explain

1 why it rescinded Judge Fiore's suspension without pay if it genuinely believed that the verdict,  
2 standing alone, justified disciplinary action.

3 These actions are difficult to reconcile with the Commission's current position. If the  
4 verdict were sufficient to establish grounds for discipline, one would expect the Commission to  
5 have acted consistently with that belief throughout these proceedings. Instead, the Commission's  
6 shifting approach suggests uncertainty regarding the legal significance of the verdict and  
7 undermines the force of its present argument.

8 At a minimum, the Commission's failure to address these issues raises serious questions  
9 regarding the consistent application of its rules and procedures. Due process requires that  
10 disciplinary proceedings be conducted in a principled, predictable, and even-handed manner.

## 11 II.

### 12 CONCLUSION

13 For the foregoing reasons, the Formal Statement of Charges is legally deficient in multiple,  
14 independent respects. It fails to provide constitutionally adequate notice of the statutory grounds  
15 for discipline, relies on speculative and time-barred theories unsupported by the record, and  
16 improperly seeks to extend disciplinary authority to conduct that occurred outside the scope of the  
17 Commission's jurisdiction at the time it was alleged to have occurred. The Commission's  
18 Opposition does not cure these defects and, in several respects, underscores them.

19 Because the Commission has not identified a cognizable legal basis to proceed and has not  
20 met its burden to state a claim consistent with due process, the Formal Statement of Charges should  
21 be dismissed in its entirety.

22 Dated this 2<sup>nd</sup> day of June, 2026.

23 CLARK HILL PLLC

24 /s/ Paola M. Armeni, Esq.

25 PAOLA M. ARMENI

26 Nevada Bar No. 8357

1700 South Pavilion Center Drive, Suite 500

Las Vegas, Nevada 89135

27 Tel: (702) 862-8300

28 Attorney for Respondent, Michele Fiore

1 **CERTIFICATE OF SERVICE**

2 The undersigned, an employee of Clark Hill PLLC, hereby certifies that on the 2<sup>nd</sup> day of  
3 June, 2026, I served a true and correct copy of the foregoing **THE HONORABLE JUDGE**  
4 **MICHELE FIORE’S REPLY TO OPPOSITION TO RESPONDENT’S MOTION TO**  
5 **DISMISS** via electronic means and U.S. Mail:

6 Thomas J. Donaldson  
7 1817 N. Stewart Street, Ste. 35  
8 Carson City, Nevada 89706  
9 Email: [tom@majlabor.com](mailto:tom@majlabor.com)

10 Special Counsel for the Nevada  
11 Commission on Judicial Discipline

12 /s/ Tanya West  
13 An employee of CLARK HILL PLC